

Case Study 2 The Arbitration Case of Jesse Stansky

At the arbitration hearing, both parties were adamant in their positions. Nancy Huang, HR manager of Phoenix Semiconductor, argued that the grievant, **Jesse Stansky**, was justly terminated for arguing and hitting a coworker—a direct violation of company policy and the employee handbook. **Stansky** argued that he had been a good employee during his 10 years of employment.

The submission agreement governing the case read, “It is the employer’s position that just cause existed for the discharge of Mr. **Jesse Stansky** and the penalty was appropriate for the offense committed.” Additionally, the employer introduced into evidence the labor agreement, which defined just cause termination as follows:

Just cause shall serve as the basis for disciplinary action and includes, but is not limited to: dishonesty, inefficiency, unprofessional conduct, failure to report absences, falsification of records, violation of company policy, destruction of property, or possession or being under the influence of alcohol or narcotics.

Stansky was hired as a systems technician on November 20, 1998, a position he held until his termination on October 25, 2011. According to the testimony of Huang, Phoenix Semiconductor strived to maintain a positive and cordial work environment among its employees. Fighting on the job was strictly prohibited. **Stansky**’s performance evaluation showed him to be an average employee, although he had received several disciplinary warnings for poor attendance and one three-day suspension for a “systems control error.” **Stansky** was generally liked by his coworkers, and several testified on his behalf at the arbitration hearing.

The termination of **Stansky** concerned an altercation between himself and Gary Lindekin, another systems technician. According to witnesses to the incident, both **Stansky** and Lindekin became visibly upset over the correct way to calibrate a sensitive piece of production equipment. The argument—one witness called it no more than a heated disagreement—lasted approximately three minutes and concluded when **Stansky** was seen forcefully placing his hand on Lindekin’s shoulder. Lindekin took extreme exception to **Stansky**’s behavior and immediately reported the incident to management. After interviews with both **Stansky** and Lindekin and those who observed the incident, Huang, Samantha Lowry, the employee’s immediate supervisor, and Grant Ginn, department manager, decided that **Stansky** should be terminated for unprofessional conduct and violation of company policy.

Questions

1. Which arguments should be given more weight: those based on company policy, the employee handbook, and the labor agreement or mitigating factors given by the grievant and his witnesses? Explain.
2. How might unprofessional conduct be defined? Explain.
3. If you were the arbitrator, how would you rule in this case? Explain fully the reasons for your decision.

Source: Adapted from an arbitration heard by George W. Bohlander. All names are fictitious.

ANSWERS TO HIGHLIGHTS IN HRM 1

1. No. Applicants are considered as employees and, as such, are protected under the law.
2. No. Individual questioning of employees about their union membership or activities is unlawful.
3. No. Except in specific situations (e.g., to promote safety), employees have the right to wear union insignia.
4. Yes.
5. Yes. Blacklisting of job applicants or employees is against labor law.
6. No. During an organizing drive, an employer cannot promise improvements in wages or benefits as a means of defeating the union.